

2013 DRAFTING REQUEST

Bill

Received:	10/2/2013	Received By:	phurley
Wanted:	As time permits	Same as LRB:	-3529
For:	Leon Young (608) 266-3786	By/Representing:	Greg
May Contact:		Drafter:	phurley
Subject:	Criminal Law - miscellaneous Criminal Law - sex offenses	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Youngl@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Expungement if offender was under 18 and victim of human trafficking

Instructions:

model on 973.015 (1) (b)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 10/2/2013			_____			
/1	phurley 10/21/2013	csicilia 10/18/2013	jfrantze 10/18/2013	_____	mbarman 10/18/2013		
/2		csicilia 10/22/2013	jfrantze 10/22/2013	_____	sbasford 10/22/2013	srose 11/7/2013	

FE Sent For:

<END>

*Not
Needed*

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/2		csicilia 10/22/2013	jfrantze 10/22/2013	_____	sbasford 10/22/2013		

*Jacket per Greg
11-7-13*

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Handwritten: 1/2 jgs 10/22
 13 <END> ps 22

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/?	phurley	1 gs 10/16 13	CJS	RS 10/18			

FE Sent For:

<END>

973 015
like (S) of
18+
victim of trafficking

running away for the first time and are likely to fall prey to victimization within the first 48 hours of running away."

Connie shared an example of 13-year-old "Alyssa" who was recruited into the sex trade as a first time runaway on the streets. A nice woman Alyssa met offered her a meal and a place to live. Alyssa soon found herself locked in a basement, beaten and raped. The pimp where she was taken murdered a girl in front of Alyssa who refused to sell herself and Alyssa submitted to selling herself to stay alive. According to Rose, Alyssa's story is not unusual.

Florida Human Trafficking Laws

New legislation has strengthened existing laws against human trafficking attempting to combat the estimated 32-billion dollar sex trafficking industry.

Laws that went into effect on July 1, 2012, accomplish the following:

- Combine Florida's three existing statutes into one, making it more user-friendly for law enforcement.
- Increase penalties for crime of human smuggling from a first-degree misdemeanor to a third degree felony.
- Provide that those convicted of human sex trafficking may be designated as sex offenders/predators.
- Provide that any property used for human trafficking is subject to forfeiture.
- Require massage establishments/employees to present valid photo identification upon request.
- Give jurisdiction for human trafficking to the Statewide Prosecutor and the Statewide Grand Jury.

Additionally, three important human sex trafficking bills passed the Florida Legislature during the 2013 legislative session:

HB 1325 (SB 1644): Relating to Victims of Human Trafficking by Representative Ross Spano and Senator Anitere Flores authorizes a victim of human trafficking to petition the court to expunge of any conviction for an offense committed while he or she was a victim of human trafficking. The legislation also allows a minor under 16 by discretion of the court to give testimony outside of the court or use a pseudonym if the minor would be mentally or emotionally harmed by in-court testimony. HB 1325 passed the House 116-0 and was substituted for SB 1644 in the Senate, passing 37-0. HB 1325/SB 1644 was signed into law on May 30, 2013 by Governor Rick Scott.

HB 1327 (SB 1734): Relating to Pub. Rec. /Crim. Hist. /Human Trafficking Victims by Representative Ross Spano and Senator Anitere Flores creates a public records exemption for HB1325/SB 1644. This exemption provides for the criminal history of a human trafficking victim to be exempt from any public records requests except upon order of a court. HB 1327 passed the House 116-0 and was substituted for SB 1734 in the Senate, passing 36-0. HB 1327/SB 1734 was signed into law on May 30, 2013 by Governor Rick Scott.

HB 7005 (SB 500): Relating to Massage Establishments by the House Criminal Justice Subcommittee and Senator Jeff Clemens amends the "Massage Practice Act" to create additional prohibitions that are designed to curb illegal activity in massage establishments. Specifically, revises hours of operation and prohibits a massage establishment to be used as a principle domicile unless zoned for residential. Provides for establishments in violation

101



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3309??
PJH:.....

gjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10-2-13

SA
X-ref

Gen Cat

or adjudication
of delinquency

- 1 AN ACT...; relating to: expunging a record of a conviction if the offender was a
② victim of human trafficking

successfully

Insert
analysis 1

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of a criminal offense for which the maximum period of imprisonment is not more than six years and the person committed the offense before he or she was 25 years old, the court may order, at the time the person is sentenced, that the person's record of the offense be expunged when the person completes his or her sentence or any period of probation imposed for the offense. Current law excludes certain offenses from expungement and generally requires the court to determine that the person will benefit and society will not be harmed by expungement.

upon an offender's
successful completion of his or
her sentence

Current law requires the court to expunge a record of conviction for certain offenses related to invasion of privacy if the offender was under the age of 18 when he or she committed the offense.

Under this bill, a court must order that a person's record be expunged upon successful completion of his or her sentence if the court finds that all of the following are true:

1. The person was under the age of 18 when he or she committed the offense.
2. The person was a victim of human trafficking.
3. The offense is related to the person's status as a victim of human trafficking.

Insert analysis 2:

4. The offense is otherwise eligible for expungement.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert 2.1
SECTION 1. 973.015 (1) (a) of the statutes is amended to read:

973.015 (1) (a) Subject to par. (b) and (bg) and except as provided in par. (c), when a person is under the age of 25 at the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum period of imprisonment is 6 years or less, the court may order at the time of sentencing that the record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition. This subsection does not apply to information maintained by the department of transportation regarding a conviction that is required to be included in a record kept under s. 343.23 (2) (a).

LA
History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189; 2003 a. 33, 50, 320; 2009 a. 28; 2011 a. 268.

SECTION 2. 973.015 (1) (bg) of the statutes is created to read:

973.015 (1) (bg) The court shall order at the time of sentencing that the record be expunged upon successful completion of the sentence if the courts finds that all of the following are true:

1. The person who committed the offense was a victim of a violation of s. 940.302 or 948.051, or a victim of a severe form of trafficking under 22 USC 7102 (13). The court may make this finding without regard to whether anyone was prosecuted for or convicted of the violation. *14*

2. The person was under the age of 18 when he or she committed the offense. ✓

3. The offense is related to the person's status a victim under subd. 1. ✓

(END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3309/lins
PJH:.....

1 **INSERT ANALYSIS 1:**

no 9 If the person was adjudicated delinquent for committing ^{an} ~~the~~ offense, current law allows the person to petition the court to expunge his or her record of the adjudication when he or she reaches the age of 17. Under current law, the court may expunge the record of the adjudication if the person complied with the conditions of his or her dispositional order. ^{the}

2

3 **INSERT ANALYSIS 2:**

no 9 If the person was adjudicated delinquent for committing the offenses related to invasion of privacy, current law requires the court to expunge the record upon petition of the person when she he or attains the age of 17, of the adjudication if the person had no prior adjudications of delinquency and he or she complied with the conditions of his or her dispositional order.

9 Under this bill, if a person successfully completes his or her sentence, or if a juvenile who was adjudicated delinquent complies with the conditions of his or her dispositional order and petitions for expungement upon attaining the age of 17, the court must order that the record be expunged if the court finds that all of the following are true:

4 **INSERT 2.1:**

5 **SECTION 1.** 938.355 (4m) (a) of the statutes is amended to read:

6 938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12,
7 1993 stats., or s. 938.12 may, on attaining 17 years of age, petition the court to
8 expunge the court's record of the juvenile's adjudication. Subject to par. (b) and (bg),
9 the court may expunge the record if the court determines that the juvenile has
10 satisfactorily complied with the conditions of his or her dispositional order and that
11 the juvenile will benefit from, and society will not be harmed by, the expungement.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 12, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

12 **SECTION 2.** 938.355 (4m) (bg) of the statutes is created to read:

13 938.355 (4m) (bg) The court shall expunge the court's record of a juvenile's
14 adjudication if the courts finds that all of the following are true:

1 1. The juvenile was a victim of a violation of s. 940.302 or 948.051, or a victim
2 of a severe form of trafficking under 22 USC 7102 (14). The court may make this
3 finding without regard to whether anyone was prosecuted for or convicted of the
4 violation. ✓ ✓

5 2. The offense for which the juvenile was adjudicated delinquent is related to
6 the person's status a victim under subd. 1. ✓

7 3. The juvenile has satisfactorily complied with the conditions of his or her
8 dispositional order.

juvenile's



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3309/1

PJH:cjs:cjs

stays MR

2013 BILL

8/27

54
10-23
Gen Cat

1 AN ACT *to amend* 938.355 (4m) (a) and 973.015 (1) (a); and *to create* 938.355
2 (4m) (bg) and 973.015 (1) (bg) of the statutes; **relating to:** expunging a record
3 of a conviction or adjudication of delinquency if the offender was a victim of
4 human trafficking.

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of a criminal offense for which the maximum period of imprisonment is not more than six years and the person committed the offense before he or she was 25 years old, the court may order, at the time the person is sentenced, that the record of the offense be expunged when the person successfully completes his or her sentence imposed for the offense. If the person was adjudicated delinquent for committing an offense, current law allows the person to petition the court to expunge the record of the adjudication when he or she reaches the age of 17. Under current law, the court may expunge the record of the adjudication if the person complied with the conditions of his or her dispositional order. Current law excludes certain offenses from expungement and generally requires the court to determine that the person will benefit and society will not be harmed by expungement.

Current law requires the court to expunge a record of conviction, upon an offender's successful completion of his or her sentence, for certain offenses related to invasion of privacy if the offender was under the age of 18 when he or she committed the offense. If the person was adjudicated delinquent for committing the offenses related to invasion of privacy, current law requires the court to expunge the

BILL

- 2 -

record of the adjudication, upon petition of the person when she he or attains the age of 17, if the person had no prior adjudications of delinquency and he or she complied with the conditions of his or her dispositional order.

Under this bill, if a person successfully completes his or her sentence, or if a juvenile who was adjudicated delinquent complies with the conditions of his or her dispositional order and petitions for expungement upon attaining the age of 17, the court must order that the record be expunged if the court finds that all of the following are true:

1. The person was under the age of 18 when he or she committed the offense.
2. The person was a victim of human trafficking.
3. ~~The offense is related to~~ the person's status as a victim of human trafficking.
4. The offense is otherwise eligible for expungement.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 938.355 (4m) (a) of the statutes is amended to read:

938.355 (4m) (a) A juvenile who has been adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 may, on attaining 17 years of age, petition the court to expunge the court's record of the juvenile's adjudication. Subject to par. (b) and (bg), the court may expunge the record if the court determines that the juvenile has satisfactorily complied with the conditions of his or her dispositional order and that the juvenile will benefit from, and society will not be harmed by, the expungement.

SECTION 2. 938.355 (4m) (bg) of the statutes is created to read:

938.355 (4m) (bg) The court shall expunge the court's record of a juvenile's adjudication if the courts finds that all of the following are true:

1. The juvenile was a victim of a violation of s. 940.302 or 948.051, or a victim of a severe form of trafficking under 22 USC 7102 (14). The court may make this finding without regard to whether anyone was prosecuted for or convicted of the violation.

BILL

1 2. The offense for which ~~the juvenile~~ was adjudicated delinquent is related to
2 the juvenile's status ^{as} a victim under subd. 1.

3 3. The juvenile has satisfactorily complied with the conditions of his or her
4 dispositional order.

5 **SECTION 3.** 973.015 (1) (a) of the statutes is amended to read:

6 973.015 (1) (a) Subject to par. (b) and (bg) and except as provided in par. (c),
7 when a person is under the age of 25 at the time of the commission of an offense for
8 which the person has been found guilty in a court for violation of a law for which the
9 maximum period of imprisonment is 6 years or less, the court may order at the time
10 of sentencing that the record be expunged upon successful completion of the sentence
11 if the court determines the person will benefit and society will not be harmed by this
12 disposition. This subsection does not apply to information maintained by the
13 department of transportation regarding a conviction that is required to be included
14 in a record kept under s. 343.23 (2) (a).

15 **SECTION 4.** 973.015 (1) (bg) of the statutes is created to read:

16 973.015 (1) (bg) The court shall order at the time of sentencing that the record
17 be expunged upon successful completion of the sentence if the courts finds that all
18 of the following are true:

19 1. The person who committed the offense was a victim of a violation of s. 940.302
20 or 948.051, or a victim of a severe form of trafficking under 22 USC 7102 (14). The
21 court may make this finding without regard to whether anyone was prosecuted for
22 or convicted of the violation.

23 2. The person was under the age of 18 when he or she committed the offense.

24 3. The offense is related to the person's status a victim under subd. 1.

25

(END)

as

person
would not have
committed the

if not for
his or her

Barman, Mike

From: Barman, Mike
Sent: Thursday, October 24, 2013 10:34 AM
To: Stewart, Greg
Cc: Rep. Young
Subject: Requested PDF's attached



13-3309_2.pdf



13-3453_1.pdf

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
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